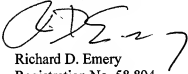


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number 042933/275300
(filed with the Notice of Appeal)		
Application Number 10/792,175	Filed March 3, 2004	
First Named Inventor: Andrea Finke-Anlauff		
Art Unit 2173	Examiner Kieu Vu	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>Respectfully submitted,</p> <p> Richard D. Emery Registration No. 58,894</p> <p>Date <u>January 24, 2008</u></p> <p>Customer No. 00826 ALSTON & BIRD LLP Bank of America Plaza 101 South Tryon Street, Suite 4000 Charlotte, NC 28280-4000 Tel Charlotte Office (704) 444-1000 Fax Charlotte Office (704) 444-1111</p> <p>ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JANUARY 24, 2008.</p>		

REMARKS

This communication is filed in response to the final Official Action dated September 12, 2007 and following a telephonic interview conducted on November 14, 2007. The final Official Action rejected Claims 1, 2, and 4-36, under 35 U.S.C. § 102(b) as being anticipated by the international publication WO 02/057959 A2 to Rothmuller *et al.* ("*Rothmuller*"), Claims 1, 26, 29, and 35 being independent. In addition, Claims 1, 21, 24, and 35 are subject to a provisional double patenting rejection.

Regarding the rejections of independent Claims 1 and 35, Applicants had previously argued in an Amendment dated July 9, 2007 that Claims 1 and 35 could be distinguished from *Rothmuller* at least due to the fact that *Rothmuller* fails to teach "second instructions for generating a timeline view that . . . provides access to the at least one digital media file according to periods of time defined in the timeline **and according to events represented in the timeline**," as recited in Claims 1 and 35. The final Official Action, however, erroneously characterized this argument as suggesting that "the prior art does not teach or suggest a 'timeline view that provides access to at least one digital media file **according to periods of time**'." See p. 4, first ¶. To this fabricated argument, the final Official Action responds that "in contrast to the applicant's argument," *Rothmuller* "does teach timeline view showing adjustable time bands can be moved to find all photo within timestamp." See p. 4, second ¶. As such, the final Official Action is not responsive to Applicants' prior arguments regarding Claims 1 and 35.

Further, as stated in the Amendment of July 9, 2007, Applicants respectfully submit that *Rothmuller* does not disclose events that are "represented in a timeline," but instead simply discusses categories of "event tags" that might be associated with an image by being included in the metadata of an image. As such, *Rothmuller* does not teach or suggest a timeline view that provides access to at least one digital media file according to periods of time defined in the timeline and according to events in the timeline, as required by amended Claims 1 and 35. Thus, the rejections of independent Claims 1 and 35, as well as those of the claims that depend therefrom, should be reversed.

Regarding the rejection of independent Claim 26, Applicants had previously argued in the Amendment of July 9, 2007 that this claim could be distinguished from *Rothmuller* at least due to the fact that *Rothmuller* fails to teach "providing the user the ability to locate digital media files within the media view by scrolling a timeline that is displayed in conjunction with the media view" as recited in

Claim 26. In conjunction with this argument, Applicants had noted that *Rothmuller* discloses only a timeline that includes "time bands" (*i.e.*, markers on a timeline) that can be moved along the timeline to limit the temporal range of consideration when searching for objects in a database, and does not teach or suggest a timeline that can be scrolled in order to locate media files, as recited by Claim 26.

To this argument, the final Official Action responded that "in contrast to the applicant's argument," *Rothmuller* "does teach timeline view showing adjustable time bands can be moved to find all photo within timestamp." See p. 4, fourth ¶. As such, the final Official Action was unresponsive to Applicants' arguments regarding the dissimilarity between "scrolling a timeline" and the "timebands" of *Rothmuller*. However, during the telephonic interview of November 14, 2007, the Examiner indicated a view that *Rothmuller* did teach the scrolling of a timeline in Fig. 3, specifically through the inclusion of left-facing and right-facing arrows at the lower left and right corners of the timeline shown in that figure. The Examiner adopted this view in spite of the fact that (1) the function of the arrows is never discussed in *Rothmuller* and (2) *Rothmuller* explicitly discloses the movement of "timebands" within the timeline, and nowhere discusses movement of the timeline itself, and as such the use of the arrows in moving the timebands is a plausible function to attribute to the arrows. For at least these reasons, Applicants respectfully submit that *Rothmuller* does not disclose "providing the user the ability to locate digital media files within the media view by scrolling a timeline that is displayed in conjunction with the media view" as recited in Claim 26. Thus, the rejection of Claim 26, and that of each of the claims depending therefrom, should be reversed.

Regarding the rejection of independent Claim 29, Applicants had previously argued in the Amendment of July 9, 2007 that *Rothmuller* does not disclose, at least, "individually presenting the media file as a media file representation in a date column of the media view in accordance with the determination of the manner of representation," as recited in Claim 29. Rather, Applicants had argued, *Rothmuller* discloses (i) displaying a distribution of objects stored in a database (and not the objects or representations thereof individually) as a histogram along a timeline or in a calendar view, and also (ii) displaying images associated with a search in an image area, the image area being associated with the search and not with a date. The final Official Action had responded that *Rothmuller* "does teach photos displayed in vertical bar, which represent date of the particular periods", citing Fig. 3; Fig. 4; p. 8, ll. 27-31; and p. 9, ll. 1-14 of *Rothmuller* for support. See p. 4, sixth ¶. However, these portions of *Rothmuller* do not address the display of individual media file representations, but rather disclose the presentation of bar graphs and histograms that represent a

number of media files associated with certain dates. As such, *Rothmuller* does not disclose "individually presenting the media file as a media file representation in a date column of the media view in accordance with the determination of the manner of representation," as recited in Claim 29. Thus, the rejection of Claim 29, and that of each of the claims depending therefrom, should be reversed.

Finally, in the Amendment dated July 9, 2007, Applicants requested that the provisional double patenting rejections be held in abeyance until such time as at least one of the cited patent applications issues as a patent. The final Official Action was silent as to whether such rejection would be held in abeyance.